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FEDERAL COURT OF AUSTRALIA

Deeming v Pesutto (No 3) [2024] FCA 1430

JUDGMENT SUMMARY

In accordance with the practice of the Federal Court in cases of public interest, importance or complexity, the following summary has been prepared to accompany the orders made today. This summary is intended to assist in understanding the outcome of this proceeding and is not a complete statement of the conclusions reached by the Court. The only authoritative statement of the Court's reasons is that contained in the published reasons for judgment which will be available on the internet on the Court's website. This summary is also available on the Court's website.

This proceeding was commenced by Mrs Moira Deeming MLC, a Member of the Victorian Parliament for the electoral district of Western Metropolitan Region in the Legislative Council against Mr John Pesutto MP, the Leader of the Opposition and the Leader of the Victorian Parliamentary Liberal Party, for defamation arising out of five publications respectively referred to at the hearing as the media release, the 3AW interview, the ABC interview, the press conference and the expulsion motion and dossier.

Mrs Deeming pleaded numerous defamatory imputations in respect of each of those five impugned publications.

The Court has found that the following defamatory imputations were conveyed:

In respect of the media release:

The imputation found to be conveyed is that Mrs Deeming is unfit to belong to the Victorian Parliamentary Liberal Party because she knowingly associates with neo-Nazis.

In respect of the 3AW interview:

The imputation found to be conveyed is that Mrs Deeming associates with Nazis and is thus unfit to be a member of the Parliamentary Liberal Party.

In respect of the ABC interview:

The imputation found to be conveyed is that Mrs Deeming knowingly associates or sympathises with neo-Nazis and white supremacists and is thus unfit to be a member of the Parliamentary Liberal Party and the Liberal Party.

In respect of the press conference:

The imputation found to be conveyed is that Mrs Deeming participated in a rally and knowingly worked with Ms Keen and other organisers to help them promote their odious Nazi agenda and their white supremacist and ethno-fascist views.

In respect of the expulsion motion and dossier:

The imputations found to be conveyed are that:

(a) Mrs Deeming had so conducted herself on 18 March 2023 in relation to a public rally that it warranted her expulsion from the Victorian Parliamentary Liberal Party; and

(b) Mrs Deeming conducted activities in a manner likely to bring discredit on the Victorian Parliament or Parliamentary Liberal Party by organising, promoting and attending a rally on 18 March 2023.

Pursuant to section 10A(1) of the *Defamation Act 2005* (Vic) the Court has also found that Mrs Deeming has established that the publication of each of the five impugned publications has caused, or is likely to cause, serious harm to her reputation.

Mr Pesutto relied on the defences of:

(a) public interest under section 29A of the Defamation Act;

(b) honest opinion under section 31 of the Defamation Act;

(c) common law qualified privilege; and

(d) contextual truth under section 26 of the Defamation Act.

The Court has found the defences of public interest, honest opinion and common law qualified privilege fail, and that the defence of contextual truth does not arise.

The Court has concluded that the appropriate award of damages to Mrs Deeming for non-economic loss is $300,000, and has declined to make any award for aggravated damages.

The only order that will be made today upon the publication of these reasons is to adjourn the matter to a date to be fixed for the purpose of the parties bringing in orders to give effect to the published reasons and to deal with any argument as to the grant of any injunctive relief, and as to the calculation of interest and costs.

O'CALLAGHAN J

12 December 2024

Melbourne

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